REMARKS

Applicants forward the certified copies of the United Kingdom applications relied on for priority.

The independent claims have been amended to more particularly define applicants' contribution to the art.

The anticipation rejection based on Lapicque, United States patent 7,079,658, of independent claims 1, 15, 16, 18 and 33 under 35 USC 102 (e) is overcome as result of the disclosure in UK patent application 0102230, filed January 29, 2001. Figure 3 and the description thereof on page 2 of the application disclose the subject matter of claims 1, 15, 16, 18 and 33. The January 29, 2001 filing date antedates the Lapicque June 14, 2001 filing date.

Applicants traverse the rejection of claim 32 based on Lapicque. The office action incorrectly states column 2, lines 31-49 of Lapicque discloses a playing terminal that controls the data rate of data transmitted by an audio source to the playing terminal. Column 2, lines 31-49 of the reference indicates an audio processing system applies a finite impulse response filter to a head related transfer function associated with voices transmitted from plural sound sources. The audio processing system distributes a fixed number of coefficients among the voices. The distribution of coefficients is based on the priority of each channel so that those voices having a higher priority than other voices have a greater number of coefficients assigned to them than lower priority voices. The voices are processed by the finite impulse response filter using the

assigned number of coefficients for each voice. The results of the finite impulse response filter are further processed and supplied to a set of speakers. It is not seen how the foregoing portion of Lapicque discloses a processing system that controls the data rate of data transmitted by the voices to the processing system. Explanation is requested.

Independent claims 1, 15, 16, 18, 32 and 33, particularly as amended, are not made obvious by the combination of Conner et al., US patent 6,011,851, Hassan et al., US patent 5,974,376 and the King et al. publication. The office action admits the primary reference, Conner et al., fails to disclose a key feature of these claims, that is, a playing terminal that controls the data rate of transmitted data relating to each audio component.

The reliance on Hassan et al. for this feature is misplaced. In Hassan et al., audio receiving unit 70, Figure 3, responds to a user input derived by audio quality control device 92 and an audio transmission from audio transmitting unit 20, Figure 2, by deriving an audio quality control signal that is supplied to transmitting unit 20. The audio quality control signal changes the resolution of the signal that unit 20 transmits to unit 70 by using wavelet techniques. Thereby, additional signal detail, over that of a base signal, is added to the signal that unit 20 transmits to unit 70. The office action erroneously states the data rate of transmitted data in Hassan et al. is dependent on a selected focus sound or track. The office action fails to indicate the portion of Hassan et al. that discloses anything about a selected focus sound or track and applicants are unable to find anything in the reference about a focus sound or track. If the examiner

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persists in stating that Hassan et al. discloses a data rate that is dependent on a selected focus sound or track, he is requested to indicate where the reference has such a disclosure.

Each of the independent claims has been amended to indicate each of the audio components comprises audio data relating to a different audio sound source or a different audio track. In Hassan et al. a single signal is broken up into parts that are selectively added to a base signal, which is entirely different from the amended requirements of independent claims 1, 15, 16, 18, 32 and 33.

Dependent claims 2-14, 17, 19-27, 30, 31 and 34-36 are allowable for the same reasons advanced for the claims upon which they depend. The Slezak reference, US patent 6,647,119, relied on as a secondary reference in connection with the rejection of dependent claims 6, 7, 14, 22, 23, 30 and 31, does not cure the deficiencies in the rejection of the independent claims, nor does Kobayashi, relied on as a secondary reference in connection with the rejection of dependent claims 8, 9, 24 and 25, nor does Frulla et al., US patent 6,424,357, relied on as a secondary reference in connection with the rejection of dependent claims 11 and 27.
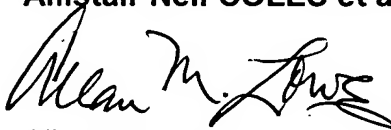
In addition, some of the dependent claims contain features that have been improperly rejected. For example, the rejections of claims 7 and 23 state it is inherent that a burst of audio data is stored in a buffer or a cache subsequent to replaying at the playing terminal. The office action fails provide any rationale or evidence to support this inherency position. Hence, the requirements for a proper rejection based on inherency, as set forth in MPEP Section 2112, have not been met.

In view of the foregoing amendments and remarks, allowance is in order.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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